

Excerpt of the Minutes
Planning and Zoning Commission Meeting Minutes
November 4, 2024

Present:
Chairman Tim Bannwolf
Vice Chair Lucas Hiler
Commissioner Bill Bird
Commissioner Bob Cates
Commissioner Susan Friar
Commissioner Terry Lemoine

Absent:
Commissioner Carlos Vecino

5.A - Zoning change request from HOL-Interim Zoning District to R2-M Moderate Density Residential for a 71.12 acre tract of land, generally located at the southwest intersection of Spencer Ranch Boulevard and Highway 46, in the City of Boerne, Kendall County, Texas.

Anisa Schell, project representative, gave a brief presentation explaining that the master community plan for this project is in alignment with the city's master plan and was accepted by the city prior to adoption of the Unified Development Code. She clarified that they anticipate approximately 2-3 years for construction and that a traffic impact analysis resulted in the construction of a new southwest-bound deceleration right-turn lane, as well as a new primary collector street at Coughran Road (to accommodate any trips being generated from the homes being built).

Chairman Bannwolf opened the public hearing at 6:14 p.m.

John Wolters, spoke in opposition of the proposed zoning case and high density development. He expressed concerns with the public notice from the city indicating it was not effective in notifying citizens of this case.

Pat and Lee Carriker, residents to the north of the site, spoke in opposition of the proposed zoning case; they expressed safety concerns with added traffic, and Mrs. Carriker read a letter to the Commission that they submitted to staff earlier in the day.

Tammy Miller, spoke on behalf of her father-in-law who owns the adjacent property to the west; she expressed concerns with traffic, perimeter fencing, noise, light pollution, and the potential impact on property values.

Chairman Bannwolf closed the public hearing at 6:36 p.m.

Commissioner Cates expressed concerns with high-density development, impervious cover, floodplain concerns, and traffic safety on Highway 46. He questioned if steep

slope/impervious cover issues had been addressed and if the development reclaimed any parts of the flood zone/updated maps to get more acreage out of the floodway.

Overall Commission discussion included a range of concerns and considerations. They expressed concerns with added traffic, and questioned if a traffic signal would be required. They discussed concerns with the density allowed in R2-M zoning, public notice for this zoning case, and inquired about certain aspects of the development agreement as it relates to the number of units being proposed. The Commission also inquired about previous plat approvals and the limited authority over density due to the development being situated in the city's extra-territorial jurisdiction (ETJ) at the time those plats were presented and approved.

Nathan Crane, Planning Director, explained that with the property being located in the ETJ, combined with the terms of the development agreement, it allowed the developers to obtain permits through the county, prior to required annexation into the city limits; this allowed road construction and for them to address floodplain concerns. He further explained that the development is bound by the approvals of Phases 1-3, which are consistent with the master community plan that was approved by the Planning and Zoning Commission back in 2018. The development agreement for the project was approved by the Boerne City Council in 2021, granting the developers certain vested rights dating back to the 2018 approval. The agreement provides some specific guidance on zoning approvals that must be obtained from City Council. There were other terms that allowed them to move through the platting process with the city but annexation had to occur in proper order. As for steep slope, he explained that he was unsure if they have been addressed in previous plats, but can find out. As for public notice, he clarified that the city has a number of notification processes and they notify neighbors as close to subject properties as possible. The city has also extended to a 500-foot radius for mail out notification letters. He noted that any multi-family housing components will require a Specific Use Permit (SUP) that will be reviewed by the Planning and Zoning Commission, who will then make a recommendation to Boerne City Council.

Mick McKamie, Associate City Attorney, clarified that zoning is tool to use to control some aspects of density once a property is annexed into the city limits and zoning is applied.

Cheryl Rogers, City Engineer, addressed questions regarding a possible traffic signal and about changes to the floodplain. For the traffic signal, she explained that at some point frontage properties will have to do traffic studies and at a later time one of the property owners will need to put in the traffic signal. She also clarified that currently there is not a middle turn lane but property owners in the future will need to provide a left turn lane when they decide to develop. As for the floodplain, she explained that

Spencer Ranch submitted a letter of map revision (LOMR) to Federal Emergency Management Agency (FEMA) which received approval. Subsequently, FEMA surveyed the bridges, culvert and grading that had been completed, resulting in a reduction in the floodplain area.

The applicant, Kevin DeAnda, requested a continuance to allow for more time to prepare a comprehensive response and acknowledged that a 30-day postponement period was likely sufficient.

A motion was made by Commissioner Hiler, seconded by Commissioner Bird, to table a zoning change request from a HOL-Interim zoning district to R2-M Moderate Density Residential Zoning District for a 71.12 acre tract of land, generally located at the southwest intersection of Spencer Ranch and Highway 46, in the City of Boerne, Kendall County, Texas (KAD: 307605; A10360 - Survey 179 Newton & Taylor 71.12 acres) until the December Planning and Zoning Commission meeting. The motion carried by the following vote:

Tabled: 6-0

Yea - Chairman Bannwolf, Commissioner Hiler, Commissioner Friar, Commissioner Bird, Commissioner Cates, Commissioner Lemoine

Mick McKamie provided more detail to the commission regarding zoning considerations with or without development agreements. He noted that the City of Boerne has negotiated development agreements before they were even recognized by state statute and that every major development agreement has language that the developer must divulge the terms of the agreement and any covenants included, to future purchasers, for the benefit of the residents; therefore, there would be something recorded for this development. A new developer could seek a new agreement but regardless, with or without a development agreement, the zoning considerations following annexation would remain the same.

Excerpt of the Minutes
Planning and Zoning Commission Meeting Minutes
December 2, 2024

Present:

Chairman Tim Bannwolf
Vice Chair Lucas Hiler
Commissioner Bill Bird
Commissioner Bob Cates
Commissioner Susan Friar
Commissioner Terry Lemoine

Absent:

Commissioner Carlos Vecino

5.A - Zoning change request from HOL-Interim Zoning District to R2-M Moderate Density Residential for a 71.12 acre tract of land, generally located at the southwest intersection of Spencer Ranch Boulevard and Highway 46, in the City of Boerne, Kendall County, Texas.

Tyler Cain, City Planner II, presented the proposed zoning change request.

The applicant, Kevin DeAnda, gave a brief presentation highlighting the single family residential development and addressing concerns that were brought up at the November Planning and Zoning Commission meeting. He noted that the proposed use is consistent with both the master plan and future land use plan, and is in conformance with the Unified Development Code. He explained that the development agreement stipulates that a zoning designation shall be in alignment with the approved plats for this subdivision. In response to traffic concerns, a Traffic Impact Analysis (TIA) was completed at the time of the development agreement. Two separate TIAs were performed, which recognized that State Highway 46 has the capacity to accommodate the proposed 209 residential lots. However, this necessitated certain mitigations and improvements, including the completion of a southwest-bound right turn lane on Highway 46 and the establishment of a new primary collector street (four lanes) at Coughran Road, both of which have been finalized. Additionally, a separate TIA was prepared for the 87 acres of frontage owners. Should this area be developed for commercial or mixed-use purposes, the installation of a traffic light at the intersection of Highway 46 and Spencer Ranch Boulevard would then be required. He also addressed issues related to water and sewer services, noting that a Utility Service Agreement has been established with Texas Water Company, which reserves 219 Equivalent Dwelling Units (EDUs). Additionally, drainage concerns are being managed through the allocation of 18 acres of open space and the implementation of on-site detention ponds to facilitate proper drainage and runoff management.

Chairman Bannwolf questioned if the public hearing requirements have been met.

Mick McKamie confirmed that one public hearing is required and one was held in the November Planning and Zoning Commission meeting, so this requirement has been met.

Chairman Bannwolf allowed time for the public to speak and opened a public hearing at 6:33 p.m.

No comments were received.

Chairman Bannwolf closed the public hearing at 6:34 p.m.

Commissioner Cates sought clarification on the definition of "customer" as mentioned in the strategy map shared during the staff presentation, particularly in relation to customer-driven feedback.

Staff members Tyler Cain, City Planner II, and Nathan Crane, Planning Director, acknowledged that the spirit of customer driven feedback encompasses both internal and external customers, including current homeowners, prospective homeowners, applicants, other departments, developers, and various boards and commissions.

Chairman Bannwolf elaborated on the role of the Planning and Zoning Commission, which serves as a representative body that seeks to balance the diverse interests of various customers when providing recommendations to the Boerne City Council.

Commissioner Hiler spoke regarding the plats that have been approved for this development throughout the years when the property was in the city's Extra-territorial Jurisdiction (ETJ). He noted that the Commission was unaware of the development transitioning into the city limits. The city has limited control on density in the ETJ, as detailed in a staff memorandum dated October 1, 2018. He noted that, to the commission's knowledge, there were no plans for annexation or zoning at that time and now the process is disordered; typically, the sequence is annexation, followed by zoning, and then the approval of development plats, however, in this instance, the development plats had already been approved. He also expressed concerns with the overall density, the utility agreement that is in place, several parts of the approval criteria not being met, and the lack of amenities in the proposed development.

Mick McKamie, Associate City Attorney, clarified that the current order is the only way it could be done because the property began in the city's ETJ. He explained that it is standard for municipalities to engage in development agreements, which are subsequently followed by zoning considerations upon annexation and should be treated like any other zoning matter.

Commissioner Friar addressed the citywide need for housing and noted that there are already several thousand lots in the pipeline to be built. She emphasized that to effectively meet the citywide demand, the city needs larger lots within larger

neighborhoods. Furthermore, she raised concerns about unaddressed safety issues and inquired about the number of property owners who were notified, questioning whether they are local residents. She further cautioned that if the R2-M zoning is granted, there would be no safeguards to prevent the developer from returning to replat the land, potentially altering the proposed development plans.

Kevin DeAnda clarified that they have no intention of replatting, but that would be a possibility.

The Commission further discussed exploring other zoning designations that would be less dense and would mandate larger lot sizes. Commissioner Cates raised concerns with the comparative density analysis chart in staff's presentation not taking topography, utilities and infrastructure into consideration, and mentioned that the dedicated green space is not developable. Commissioner Bird raised questions about the non-conforming lots that were mentioned in the staff presentation, seeking further clarification. Commissioner Lemoine inquired about the permanence of the lift station shown in the master plan and whether it was included within the 71 acres under consideration. Overall, the Commission emphasized the importance of managing growth properly in alignment with the mindset and desires of the Boerne citizens, and what reflects the best interests of the community as a whole.

Nathan Crane clarified that they cannot develop more than the 209 units, as they are tied to the approved plats.

Tyler Cain and Nathan Crane responded to inquiries concerning steep slopes, clarifying that the regulations pertaining to slopes are included in the 2018 zoning ordinance rather than the subdivision ordinance. One of the goals of the city is to preserve areas of steep slope regions, and as such, the master plan showing those areas preserved meets the intent of environmental stewardship.

Mick McKamie clarified that under the zoning ordinance only the uses in that zoning category are allowed and nonconforming uses occur if it is in existence (built and in use) the date the zoning is adopted. The lot sizes have to comply with the zoning requirements when they construct in order to obtain building permits. He further clarified that there are provisions for variances that can be obtained from the Zoning Board of Adjustment and Appelas (BOA) on a case by case basis, but not a development as a whole.

Emiliano Guerrero, representative with Forestar development, addressed concerns raised regarding the potential replatting of the development site. He explained that replatting at this stage would not be feasible due to the advanced state of construction on the majority of the lots. He noted that significant progress has been made over the past year and a half, with most lots already paved and fully energized with critical

infrastructure including water, sewer, and power utilities. Throughout the construction process, Forestar development has engaged in consultations with city staff and emphasized that they have proceeded with the project in good faith, relying on the 2021 development agreement and the subsequent plat approvals granted in 2022.

Josh Valenta, engineer with Matkin Hoover, spoke to why this project was not developed in the city's ETJ; the collector road is a city requirement on the thoroughfare plan and the city does not allow the collector road to be private. The county would not take a collector road so the agreement was necessary as a collector road cannot be a private road.

The Commission continued to discuss other various zoning categories, various phases that could be zoned differently and reiterated their reservations regarding the density in the proposed zoning.

Emiliano indicated that they would like to move forward to City Council consideration one way or the other.

A motion was made by Commissioner Hiler, seconded by Commissioner Bird, to make a recommendation to the Boerne City Council to deny a zoning change request from a HOL-Interim zoning district to R2-M Moderate Density Residential Zoning District for a 71.12 acre tract of land, generally located at the southwest intersection of Spencer Ranch and Highway 46, in the City of Boerne, Kendall County, Texas (KAD: 307605; A10360 - Survey 179 Newton & Taylor 71.12 acres). The motion carried by the following vote:

Recommendation to Deny: 6-0

Yea - Chairman Bannwolf, Commissioner Hiler, Commissioner Friar, Commissioner Bird, Commissioner Cates, Commissioner Lemoine